



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

August 5, 2014

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IRM 5.7.7
IRM 5.7.10

MEMORANDUM FOR DIRECTORS, FIELD COLLECTION AREA OPERATIONS
DIRECTOR, ADVISORY AND INSOLVENCY

FROM: Rocco A. Steco */s/ Rocco A. Steco*
Acting Director, Collection Policy

SUBJECT: Interim Guidance for Trust Fund Recovery Penalty Protest
Cases and Form 843, *Claim for Refund and Request for
Abatement*, processing by Advisory

This memorandum provides interim guidance concerning requests for additional information from Appeals on Trust Fund Recovery Penalty (TFRP) protest cases and Form 843, *Claim for Refund and Request for Abatement*, processing by Advisory. Please ensure that this information is distributed to all affected employees within your organization. This guidance is effective August 11, 2014.

IRM 5.7.6.1.10, *Controlling and Monitoring Appeals Cases*, and IRM 5.7.10.6, *Appeals Cases – Controlling and Monitoring*, state that Appeals may request additional information after receipt of a TFRP protest. An Appeals hearing officer may determine that new information submitted by a potentially responsible party requires investigative analysis. In this situation, Appeals will retain jurisdiction of the case and forward the new information request via Form 10467, *Appeals Division Feedback Report and Transmittal Memorandum*, to the originating Control Point Monitoring (CPM) Advisory group for processing. The CPM should consult with an advisor and if it is determined additional investigative analysis by a revenue officer is necessary, CPM Advisory will follow guidance in IRM 5.1.8.5.1, *Types of Mandatory OIs*, to issue an OI. The information should be provided within 45 calendar days of the request. This date may be extended by mutual agreement. These situations should be highly uncommon. To avoid ex parte communications, Appeals has the responsibility for informing the potentially responsible party that the information was sent to Field Collection for investigation, sharing Field

Collection's response with the potentially responsible party and allowing the potentially responsible party time to comment.

IRM 5.7.7, *Payment Application and Refund Claims*, provides guidance on the processing of Form 843, *Claim for Refund and Request for Abatement*. The guidance will be expanded as follows:

- If an Appeals determination was already made in regard to the TFRP at issue (whether in the form of Letter 1153 protest, claim, doubt as to liability offer in compromise, etc.), neither Advisory nor Field Collection employees can reverse the prior determination made by Appeals. Only Appeals can reverse such a determination. Therefore, the claim will be forwarded to Appeals without consideration by Advisory.
- If Appeals determines during initial review that the issue raised is the same as in the previous Appeals determination, Appeals will retain jurisdiction of the claim.
- If Appeals determines during initial review that the issue raised in the new claim is different from the issue raised in the previous Appeals determination, Appeals will close the claim as a premature referral and return it to Advisory.
- Advisory will consider the claim, addressing only new issues, and make a determination. Advisory has the authority to make a claim determination for new issues raised only after Appeals has confirmed there has been no prior Appeals determination on the specific issue(s) raised. Advisory's determination is not considered a reversal of Appeals prior determination as it pertains to a new issue(s).

IRM 5.7.6, 5.7.7 and 5.7.10 will be updated to incorporate these guidelines. If you have any questions, please feel free to contact me, or a member of your staff may contact Jeanne Dunford, Senior Program Analyst. Advisory personnel should direct any questions, through their management staff, to the appropriate headquarter contact.

cc: Director, Enterprise Collection Strategy
Director, Field Collection
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